

Risk, Pre-crime and Counterterrorism: Assessing Pakistan's Approach

*J. Riaz Hussain**

ABSTRACT: There is a gradual global shift in understanding counterterrorism from a risk management perspective. It takes into account the idea of Risk Society and can explain diverse practices adopted by states, particularly after September 11, 2001, in tackling terrorism. The resultant birth of a culture of fear dictates deviation in the aim of national security strategies from ensuring justice to safety through pre-emption. The Western states have of late increasingly stressed the need to eliminate the threat of terrorism as their top priority. Surprisingly, though, there is a dearth of certain crucial states in the prevalent discourse, which, despite being disadvantaged in the wake of developmental challenges, have encompassed congruent transformations. This paper aims to analyse whether Pakistan's security and counterterrorism initiatives match those states that continue to invoke the primary interest of scholars and researchers around the globe. Such analysis retains the lens of risk management as a mode of governance in countering terrorism.

Keywords: Risk, Counter-Terrorism, Proportionality, Challenges, Appraisal, Policy.

Received: March 12, 2018. **Accepted:** March 28, 2018. **Published:** April 30, 2018.

Introduction

The September 11 attacks have proved to be instrumental in revolutionising the global security architecture in numberless ways. States continue to exhibit a diversity of responses in addressing the single cause of tackling terrorism. Despite individual efforts, the globalised nature of the threat of terrorism has erected collaborative structures and a comprehensive mechanism in waging a war, though not in the classical sense. As a result, an amorphous framework conspicuously seeks to strengthen itself on the basis of practices established in the past, and aspires to tackle futuristic probabilities.

The developed Western states, with reasonable resources and politically mature institutions, respond assertively to threats emanating from terrorism or militancy. It seems a bit overstretched to judge states confronted with developmental challenges for insufficiency to promise comparable security dividends. Understandably, with basic thrust on hurdles like poverty alleviation, education, clean drinking water or energy access, sparing even basic minimum resources can be daunting and cumbersome. Moreover, many young democracies are still struggling to attain a surefooted character of encapsulating peoples' aspirations, and generate institutional values representative of the will of citizens. Regretfully, many such fledgling democracies find their inhabitants a degree removed from government business, which directly results in failure to generate

* J. Riaz Hussain is currently enrolled in a Public Policy Master degree at the University of Tokyo.
E-mail: jibranriaz@gmail.com

an integrated push for strategic ownership of policy imperatives. These states, residing at the lowest end of the developmental spectrum, act or seem to be acting as antithetical agents to the democratic forces. Naturally, they are a poor choice for comparison with post-industrial developed nations. Such states face instability, which manifests itself in conflict, terrorism and kleptocracy. The resultant isolated citizenry, in many cases, requires assistance and intervention by the developed states for arresting emerging threats.

Countries like Pakistan, however, find themselves in a unique middle position between the two opposing ends of the developmental and security spectrum of states. Even though their progress leaves much room for improvement, they act in consonance with the developed states, and indicate equal expression of urgent global concerns. A comparison of measures, strategies and practices adopted by Pakistan and the West should prove useful in determining Pakistan's emulation capacity and may in turn predict the future trajectory for other states struggling to overcome development challenges as well as security threats.

Contemporary CT and Risk Perspectives of the Western States

Prevention of terrorism is incessantly becoming vague and intangible. The war against terrorists does not entail a classical confrontation with an identifiable and formidable enemy in some predefined arena. Without undermining the significance of rhetoric, the actual spectacle of measures against terrorism makes both prevention as well as action essentially an exercise in risk management, aimed at countering the so called new terrorism in a very utilitarian sense and without moral considerations. Utilization of war jargon has made it possible for states to resort to the use of military force for the neutralization of threats emanating from terrorist networks. Such application of force is not necessarily prudent, and may likely to be counterproductive vis-à-vis utilization of police and intelligence agencies.¹ Nevertheless, such an open-ended struggle with unforeseeable and incalculable material gains lures permanence in the contemporary security realm. Beck's original framework of risk society predates the contemporary counterterrorism measures, but it assists in gauging current predominant strategies to counter terrorism from the risk perspective with reliable accuracy.

The current counterterrorism paradigm is distinct in its peculiarity from the already established criminal justice system. This risk-based securitization, through global diffusion, does not only facilitate a security apparatus but also rejuvenates political imperatives in acknowledging a culture of uncertainty and fear. The resulting voluntary and calculated governance through terrorism (or more precisely, risk prevention) satisfies the practical

¹ Yee-Kuang Heng, "Unravelling the 'War' on Terrorism: A Risk-Management Exercise in War Clothing?" *Security Dialogue* 33, no. 2 (2002): 234.

need for the responsibility to control. The need to account for the ethical component is superseded by the fear of the known unknown. Avoiding harm dulls the traditional debates about freedom and justice, which are relegated to less urgent criminal prosecutions and considerations. In the wake of political expediencies, risks are attributed to identities for distinctive categorization and profiling, resulting unavoidably in the otherness of outsiders. Invocation of consequent leverage to gain precautionary momentum erodes the obligation to protect fundamental rights by denigrating caution in the exercise of state power, even if on the basis of risk value alone.² The veracity of Foucauldian insights regarding the internalization power of discourses is exemplified by how the environment of risk is understood, owned, and, consequently, gives license to preemptory measures.

The application of counterterrorism measures through a risk management perspective leads to governance and politics of fear. In such a context, arbitrariness and swiftness of response delineates the locus of the major Western states, or so does the research literature indicate. With such an edge, security institutions can initiate actions merely based on suspicion alone, without the need of formal charge, prosecution or evidence. In other words, a shift is being witnessed today from the post-crime ideal of impartiality inherent in the criminal justice system to a pre-crime concept of national security that retains a politically charged character.³ It can be argued that the very nature of terrorism itself elucidates a pre-emptive aspect, allowing it greater exclusivity from the cautiously calculated ambit of the judiciary. It is obvious that ethico-legal stresses will surface but that may, in the future, result in bringing the executive and judiciary closer for the effective management of terrorist threats by building fresh foundations of peace, security and justice systems. In the current circumstances, nevertheless, a fledgling hybrid system seems to regulate the legal processes in the security domain, deriving structural elements from the traditional criminal justice system in the quest for suitable decisions, albeit hurried ones.

The increasingly integrated and connected nature of the world renders local threats dangerous for the entire globe. Latent in the term “national security” is a conceptual compromise, justifying that it is essentially global security by another name. Beck’s description of the cosmopolitan outlook, where “national spaces have become denationalized” and the “national is no longer national, just as the international is no longer international,” is prophetically close to what current variations exhibit.⁴

2 Gabe Mythen and Sandra Walklate, “Terrorism, Risk and International Security: The Perils of Asking ‘What If?’” *Security Dialogue* 39, no. 2-3 (2008): 229.

3 Jude McCulloch and Sharon Pickering, “Pre-Crime and Counter-terrorism: Imagining Future Crime in the ‘War on Terror’,” *The British Journal of Criminology*, 9, no. 5 (2009): 633-640.

4 Ulrich Beck, “The Terrorist Threat: World Risk Society Revisited,” *Theory, Culture and Society* 19, no. 4 (2002): 53.

Pakistan's CT Approach & Congruence with the West

The evolution of diverse states around the globe has been distinct. The expansive literature on state evolution and democracy mostly derives standards from the West or the aged states because they are considered politically mature and fair examples of human emancipation. In the context of counterterrorism and security after September 11, the United States and United Kingdom occupy the central role in the breadth of discourse, followed by other allies like Australia. With the exception of a limited number of focused studies, catering to distinct factors and variables, most of the scholarly accounts do not take into account the nuances and approaches of counterterrorism measures and strategies of major players in the global fight against terrorism. One example is Pakistan, which, despite having been labelled as the major non-NATO ally and having suffered a shockingly large number of casualties as a result of terrorism, remains far from the interest and purview of researchers and scholars. One result of such apathy is the birth of flawed assumptions and scholarly distance in the research arena of otherwise exhaustive collaboration on the ground.⁵

For the purpose of this paper, Pakistan's counterterrorism approach can be compared with four main issues related to the West: whether actions by Pakistan fit the risk management perspective; whether there are arbitrary arrangements for fighting terrorists and militants in Pakistan; whether there has been a generation of "othered" groups through the attribution of risk identity by Pakistani state institutions; and whether the gap between the traditional criminal justice system and the penal apparatus for terrorists is prominent. In the case these measures are met, the hypothesis that the stresses and strains felt by the West are not alien to other countries will be strengthened. It shall also question the assumption of Mythen & Walklate that the post-industrial developed nations prioritize terrorist risks more exhaustively or feel resultant consequences more seriously, as compared to states that are struggling to achieve developmental dividends.⁶

Granted that a state is serious in fighting the canker of terrorism, fundamentalism, radicalization and militancy, it has to take into account the fact that the neutralization of threats (that have not yet occurred and may occur in future) is the only way a large number of people can be prevented from suffering. Moreover, this recognition presupposes that the criminal system that penalizes criminals is reactive and, consequently, preventive in nature. Pakistan's fight against terrorism, emanating from Afghanistan, the bordering tribal regions and hostile elements, has internalised the risk management perspective in a comprehensive and swift manner. The reason is the frequency of the attacks, which are mostly carried out by either suicide-bombers or *fidayeen*.⁷ As Heng points out, one

5 There is an extensive arrangement of cooperation between states fighting terrorism as far as actual field activities are concerned. They range from joint operations, intelligence sharing, provision of logistics and infrastructure, as well as concessions for the common goal.

6 Mythen and Walklate, "Terrorism, Risk and International Security," 229.

7 Fidayeen attacks are carried out in the name of religion in light of the distorted ideologies of the groups, which include any tactic that ultimately results in a terrorist killing himself.

indication of risk management on the classical foundations (manifesting itself in practical terms on the counterterrorism front) is the deployment of military force by states, as opposed to the propriety of the utilization of police led by intelligence agencies.⁸ Almost all the major operations against the terrorists are of necessity carried out by the military in order to manage the threat of the possible future occurrence of a terrorist attack, locally or globally.⁹ Intelligence is utilised for effective operations whereas policing, in numerous instances, continues to perform the routine role of managing crime. In addition, certain specialized units for CT operations that have been raised may, gradually, assist the civilian operational forces on the ground in a comparable manner in the future. Such arrangements are in line with actions taken from the risk management perspective in the major states fighting terrorism at home and abroad.

It is of equal importance to see how the discourse of the traditional documents is now being reinterpreted in the wake of emergent contemporary requirements. The security services in Pakistan are responsible for identification and the neutralization of threats to the security of the state as they were during the colonial times. The same arcane ambits are opulent with actionable flexibility to yield required meaning from risk perspective in a contemporary setting.

If the recurring feature of risk governance for terrorism is putting in place arbitrary structures and arrangements, often in conflict with the constitutional fundamentals protected through the judiciary, Pakistan has certainly put in place such measures. These measures not only strengthen the security agencies, acting on the basis of intelligence, to detain individuals for extended durations but they also grant an excuse for the absence of evidence and formal charge against the detainees. Para 3(2) of the Protection of Pakistan Ordinance 2014, for example, states that the responsible civil or armed forces “may detain any enemy alien, combatant enemy, or any person connected or reasonably believed to be connected in commission of” an act under the Anti-Terrorism Act of 1997.¹⁰ Such measures are numerous and are characteristic of transformations that have occurred as a result of a rhetorical war against terrorism around the globe, especially in the West.

Clearly, one can see the supremacy of the avoidance of negative consequence as the primary impetus of the security measures. This has resulted in the generation of narratives that, in consonance with a constructivist paradigm, regulate the daily life of Pakistani citizens. Such a threat-rich atmosphere has also resulted in the strict delineation of identities and the growth of group or ethnic sentiments previously unknown. One obvious outcome is the assertive provincialism within the state and growing suspicion

8 Heng, “Unravelling the ‘War’ on Terrorism,” 234.

9 “General James Mattis, US Secretary of Defence Called on Chief of Army Staff (COAS) General Qamar Javed Bajwa at GHQ Today,” Pakistan Army, accessed December 16, 2017 <https://www.pakistanarmy.gov.pk/awpreview/pDetails.aspx?pType=PressRelease&pID=1310>.

10 “Protection of Pakistan Ordinance (PPO),” Islamabad: National Assembly Pakistan, promulgated January 22, 2014.

of groups and classes of individuals. Just as there has been an increase in Islamophobia in the US and UK after the September 11 attacks, in Pakistan too a few Pashtuns (ethnic categorization of residents of tribal areas bordering Afghanistan and Pakistan) mistakenly claim to be the “othered” ones who allegedly carry with them the risk identity wherever they go.¹¹ Such ethnic profiling naturally poses strains on their acceptability in other parts of the state, and a resultant grudge against the rest of the citizens.¹²

The final indicator for assessing the congruence of risk-based transformative shifts relates to the issue of governmentality and requires tracing a widening gap between the traditional criminal justice system and arbitrary penal mechanisms in the absence of conclusive evidence. The ethical component, in the wake of the magnitude of damage as a result of any likely terrorist incident, has replaced political expediency in Pakistan. The “What If” component, despite the ideal need for its political inspection, has resulted in the establishment of military courts, distinct from the constitutional traditional judicial system. The attack on Army Public School in Peshawar in December 2014, which left more than 140 children dead, acted as a catalyst to put in place military tribunals through constitutional amendment.¹³ The pretext of the establishment of such tribunals highlighted the insufficiency of the regular judicial system as it requires evidence, prosecution, witnesses and laws in place. Previously, most of the militants and terrorists remained successful in getting acquittal, after adjudication that lingered for years. Military tribunals, by squeezing the time for the finalization of cases, and by awarding capital punishments, without the need for formal judicial processes, have indicated that the need to reduce the risk of terrorism weighs more than ethical or constitutional limits, especially when the yoke of bureaucratic and judicial tradition is heavy for quick reformation.

Conclusion

As examined above, Pakistan, despite acute resource constraints and developmental and energy challenges, has followed the trajectory of the developed West. This questions the hypothesis of Mythen & Walklate about the more serious impact of terrorism on the West or the advanced states.¹⁴ The existence of these measures in Pakistan gives strength to the

11 This is the result of Post 9/11 shift in security and CT strategy, as well as the utilization of risk narrative to explain terrorism by the politician. Pashtuns are regarded as an honest, hardworking and honourable race.

12 Frud Behzan and Daud Khattak, “Pashtuns Allege Persecution As Pakistan Wages Antiterrorism Battle,” accessed December 16, 2017, <https://www.rferl.org/a/pakistani-pashtun-persecution-antiterrorism/28341173.html>.

13 Maria Kari, “No Sunset for Pakistan’s Secret Military Courts,” *The Diplomat*, accessed December 15, 2017, <https://thediplomat.com/2017/04/no-sunset-for-pakistans-secret-military-courts/>.

14 There is disproportionate mismatch of the assumed seriousness of damage of less number of lives in the West as opposed to the daily killings of individuals in the less privileged and developed world. It may seem like a prejudiced assessment by ordinary application of reason. The origins of many terrorist acts may also in actuality lie with the misadventures of the West.

idea that the global risk society is increasingly connected and is run by congruent logic because the results and outcome of threats affect the entire globe, without any regard to geographical considerations. Like the Game Theory inverted, the climate of not knowing enough and then not knowing about not knowing enough has affected the way the security apparatus deals with threats.

Terrorism will remain a major security preoccupation for many years to come. The impetus is on finding the best approach in dealing with the diverse nature of terrorist groups. The importance of considering terrorism as war is prudent in cases where tactics adopted by terrorists include guerrilla activities as well, or where they form sufficient strength to confront the state forces openly.¹⁵ Nevertheless, the current nascent arrangement in dealing with terrorism should ultimately result in a harmonious coexistence of different state institutions, working under clear provisions, in line with constitutions, fundamental human rights and ethical obligations. By achieving effective state coordination, both the developing as well as developed world can reinforce each other in the common pursuit of global peace.

¹⁵ Brenda Lutz and James Lutz, "Terrorism" in *Contemporary Security Studies* (Oxford University Press, 2016), 307.

BIBLIOGRAPHY

- Beck, Ulrich. "The Terrorist Threat: World Risk Society Revisited." *Theory, Culture and Society*, 19, no.4 (2002): 53. Accessed December 16, 2017.
- Behzan, Frud and Khattak, Daud. "Pashtuns Allege Persecution as Pakistan Wages Antiterrorism Battle." March, 2017. Accessed December 16, 2017. from <https://www.rferl.org/a/pakistani-pashtun-persecution-antiterrorism/28341173.html>.
- Heng, Yee-Kuang. "Unravelling the 'War' on Terrorism: A Risk-Management Exercise in War Clothing?" *Security Dialogue*, 33, no. 2 (June 2002): 234. Retrieved December 15, 2017.
- Kari, Maria. "No Sunset for Pakistan's Secret Military Courts." *The Diplomat*. April, 2017. Accessed December 15, 2017. from <https://thediplomat.com/2017/04/no-sunset-for-pakistans-secret-military-courts/>.
- Lutz, Brenda and James Lutz. "Terrorism." In *Contemporary Security Studies*, 307. Oxford University Press, 2016.
- McCulloch, Jude and Sharon Pickering. "PRE-CRIME AND COUNTER-TERRORISM Imagining Future Crime in the 'War on Terror.'" *The British Journal of Criminology*, 9, no.5 (2009): 633-640.
- Mythen, Gabe and Sandra Walklate. "Terrorism, Risk and International Security: The Perils of Asking 'What If?'" *Security Dialogue*, 39, no.2-3 (2008): 229. Accessed December 14, 2017.
- Pakistan Army. "General James Mattis, US Secretary of Defence Called on Chief of Army Staff (COAS) General Qamar Javed Bajwa at GHQ Today." Press Release. (December 4, 2017). Accessed December 16, 2017, from <https://www.pakistanarmy.gov.pk/awpreview/pDetails.aspx?pType=PressRelease&pID=1310>.
- President of Pakistan Office. (January 22, 2014). *Protection of Pakistan Ordinance (PPO)*. Islamabad: National Assembly, Pakistan.